REMARKS

In accordance with the foregoing, claims 1, 14, 16, 19, and 23 have been amended. Claims 1-24 are pending, with claims 1, 19, and 23 being independent. No new matter is presented in this Amendment.

Claim Objections

Claims 1-24 were objected to because, according to the Examiner, "the claims include abbreviations ("AV") without a clear indication of the meaning of the abbreviations." Independent claims 1, 19, and 23 have been amended to recite "audio video (AV) data," and accordingly it is respectfully requested that the objection to claims 1-24 (i.e., claims 1, 19, and 23 and claims 2-18, 20-22, and 24 depending therefrom) be withdrawn.

Double Patenting Rejections

Rejection 1

Claim 1 was provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/685,694. This rejection is respectfully traversed.

In explaining the rejection, the Examiner states that "[a]lthough the conflicting claims are not identical, they are not patentably distinct from each other because claim 1 of the copending application [No. 10/685,694] anticipates claim 1 of Application No. 10/686,521 [the present application]."

However, claim 1 of the present application recites "a buffer manager which manages the buffer to preload the markup document and outputs buffering state information of the buffer in response to a report signal," while claim 1 of copending application No. 10/685,694 recites "a buffer manager which manages the buffer to preload the markup document and informs the content decoder of whether preloading of the markup document is completed," such that claim 1 of copending application No. 10/685,694 does not anticipate claim 1 of the present application as alleged by the Examiner.

Furthermore, it is submitted that the Examiner's explanation of this rejection does not comply with the requirements of an obviousness-type double patenting rejection set forth in MPEP 804(II)(B)(1) which provides as follows in pertinent part (see MPEP pages 800-21 and 800-22) (emphasis by underlining added):

> Since the analysis employed in an obviousness-type double patenting determination parallels the guidelines for a 35 U.S.C. 103(a) rejection, the factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103 are employed when making an obvious-type double patenting analysis. These factual inquiries are summarized as follows:
>
> (A) Determine the scope and content of a patent claim relative to a claim in the application at issue;
>
> (B) Determine the differences between the scope and content of the patent claim as determined in (A) and the claim in the application at issue;
>
> (C) Determine the level of ordinary skill in the pertinent art; and
>
> (D) Evaluate any objective indicia of nonobviousness.
>
> The conclusion of obviousness-type double patenting is made in light of these factual determinations. Any obviousness-type double patenting rejection should make clear:
>
> (A) The differences between the inventions defined by the conflicting claims — a claim in the patent compared to a claim in the application; and
>
> (B) The reasons why a person of ordinary skill in the art would conclude that the invention defined in the claim at issue is anticipated by, or would have been an obvious variation of, the invention defined in a claim in the patent.

Here, the Examiner's explanation of this rejection does not make clear the differences between claim 1 of copending Application No. 10/685,694 and claim 1 of the present application, or why a person of ordinary skill in the art would conclude that the invention defined in claim 1 of the present application is anticipated by claim 1 of copending Application No. 10/685,694. Accordingly, it is submitted that the Examiner has not established a *prima facie* case of obviousness-type double patenting with respect to this rejection.

For at least the foregoing reasons, it is respectfully requested that the provisional rejection of claim 1 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/685,694 be withdrawn.

Rejection 2

Claim 1 was provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/685,696. This rejection is respectfully traversed.

In explaining the rejection, the Examiner states that "[a]lthough the conflicting claims are not identical, they are not patentably distinct from each other because claim 1 of the copending application [No. 10/685,696] anticipates claim 1 of Application No. 10/686,521 [the present application]."

However, claim 1 of the present application recites "a buffer manager which manages the buffer to preload the markup document and outputs buffering state information of the buffer in response to a report signal," while claim 1 of copending application No. 10/685,696 recites "a first program code to carry out buffering of the markup documents to preload the markup documents; and a second program code to output information indicating whether the buffering of the markup documents is completed," such that claim 1 of copending application No. 10/685,696 does not anticipate claim 1 of the present application as alleged by the Examiner.

Furthermore, it is submitted that the Examiner has not established a *prima facie* case of obviousness-type double patenting with respect to this rejection at least for the reasons discussed above in connection with the first obviousness-type double patenting rejection.

For at least the foregoing reasons, it is respectfully requested that the provisional rejection of claim 1 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/685,696 be withdrawn.

Rejection 3

Claim 1 was provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/685,697. This rejection is respectfully traversed.

In explaining the rejection, the Examiner states that "[a]lthough the conflicting claims are not identical, they are not patentably distinct from each other because the method [of claim 1] of the copending application [No. 10/685,697] performs the same function as the apparatus [claimed in claim 1 of the present application]."

Claim 1 of the present application recites "[a]n apparatus for reproducing audio video (AV) data using a markup document in an interactive mode, comprising: a buffer which buffers the markup document; and a buffer manager which manages the buffer to preload the markup document and outputs buffering state information of the buffer in response to a report signal," while claim 1 of copending application No. 10/685,697 recites "[a] method of reproducing AV data in an interactive mode using a markup document, the method comprising: buffering the markup document to preload the markup document; and outputting buffering state information of the markup document in response to a report signal."

As pointed out by the Examiner, this provisional rejection can be overcome by filing a terminal disclaimer. However, it is submitted that filing such a terminal disclaimer would be premature at this time pursuant to MPEP 804(I)(B)(1) which provides as follows in pertinent part (see MPEP page 800-17):

> If "provisional" ODP rejections in two applications are the only rejections remaining in those applications, the examiner should withdraw the ODP rejection in the earlier filed application thereby permitting that application to issue without need of a terminal disclaimer. A terminal disclaimer must be required in the later-filed application before the ODP rejection can be withdrawn and the application permitted to issue. If both applications are filed on the same day, the examiner should determine which application claims the base invention and which application claims the improvement (added limitations). The ODP rejection in the base application can be withdrawn without a terminal disclaimer, while the ODP rejection in the improvement application cannot be withdrawn without a terminal disclaimer.

Here, there are other rejections remaining in the present application, and an Office Action has not yet been issued in copending Application No. 10/685,697 which is currently docketed to Examiner Christopher C. Grant in Art Unit 2623.. Also, the present application and copending Application No. 10/685,697 were both filed on October 16, 2003, and the Examiner has not yet made a determination as to which application claims the base invention and which application claims the improvement, such that the applicants do not yet know whether to file a terminal disclaimer in the present application or in copending Application No. 10/685,697.

Accordingly, the applicants will defer consideration of filing a terminal disclaimer until the conditions set forth in MPEP 804(I)(B)(1) have been satisfied.

Rejection 4

Claim 1 was provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 5 of copending Application No. 10/685,699. This rejection is respectfully traversed.

In explaining the rejection, the Examiner states that "[a]lthough the conflicting claims are not identical, they are not patentably distinct from each other because the method of claim 5 of the copending application [No. 10/685,699] performs the same function as the apparatus of claim 1 [of the present application]."

However, claim 1 of the present application recites "[a]n apparatus for reproducing audio video (AV) data using a markup document in an interactive mode, comprising: a buffer which buffers the markup document; and a buffer manager which manages the buffer to preload the markup document and outputs buffering state information of the buffer in response to a report signal," while claim 5 of copending application No. 10/685,699 recites "[a] method of reproducing AV data in an interactive mode using a markup document, the method comprising: inquiring whether preloading of the markup document is completed using an application program interface (API); and receiving a return value of true in response to the preloading of the markup document being completed and a return value of false in response to the preloading of the markup document being not completed," such that the method of claim 5 of copending application No. 10/685,699 does not perform the same function as the apparatus of claim 1 of the present application as alleged by the Examiner.

Furthermore, it is submitted that the Examiner has not established a *prima facie* case of obviousness-type double patenting with respect to this rejection at least for the reasons discussed above in connection with the first obviousness-type double patenting rejection.

For at least the foregoing reasons, it is respectfully requested that the provisional rejection of claim 1 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 5 of copending Application No. 10/685,699 be withdrawn.

Rejection 5

Claim 1 was provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 4 of copending Application No. 10/686,537. This rejection is respectfully traversed.

In explaining the rejection, the Examiner states that "[a]lthough the conflicting claims are not identical, they are not patentably distinct from each other because claim 4 of the copending application [No. 10/686,537] anticipates the apparatus [of claim 1 of the present application]."

However, claim 1 of the present application recites "a buffer manager which manages the buffer to preload the markup document and outputs buffering state information of the buffer in response to a report signal," while claim 4 of copending application No. 10/686,537 (which is a dependent claim but is written here in independent form) recites "[a] data storage medium, comprising: AV data; a markup document which is provided to reproduce the AV data in an interactive mode; and control information which is provided to identify buffering state information of the markup document to be preloaded; wherein the control information includes an API that returns a value of 0 in response to preloading of the markup document being successful, a value of 1 in response to the preloading of the markup document being failed, and a value of 2 in response to the preloading of the markup document still being conducted," such that claim 4 of copending application No. 10/686,537 does not anticipate the apparatus of claim 1 of the present application as alleged by the Examiner.

Furthermore, it is submitted that the Examiner has not established a *prima facie* case of obviousness-type double patenting with respect to this rejection at least for the reasons discussed above in connection with the first obviousness-type double patenting rejection.

For at least the foregoing reasons, it is respectfully requested that the provisional rejection of claim 1 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 4 of copending Application No. 10/686,537 be withdrawn.

Claim Rejections Under 35 USC 101

Claims 19-22 were rejected under 35 U.S.C. 101 because, according to the Examiner, the claimed invention is directed to non-statutory subject matter. This rejection is respectfully traversed.

In explaining the rejection, the Examiner states as follows:

> The claims recite an apparatus for controlling a buffer, but the apparatus does not appear to include the buffer. It appears that the elements of the apparatus, specifically the buffer manager, can be implemented in software alone, making the claims software, per se. Even though the claim states that the manager is part of an apparatus, it appears that the recited elements of the apparatus can be implemented in software alone. Therefore, the claims are rejected as being directed toward non-statutory subject matter.

Claim 19 is independent, and claims 20-22 depend from claim 19. Claim 19 reads as follows:

> 19. An apparatus for controlling a buffer which buffers a markup document to reproduce audio video (AV) data in an interactive mode, comprising a buffer manager which manages the buffer to preload the markup document and outputs information of the buffer including buffering information of the markup document, wherein the buffering information includes:
>
> information indicating that preloading of the markup document succeeded;
>
> information indicating that the preloading of the markup document failed; and
>
> information indicating that the preloading of the markup document is still be conducted.

Clearly, claims 19-22 recite an apparatus, which falls under the statutory category of "machine" set forth in 35 USC 101. Assuming *arguendo* that the elements of apparatus claims 19-22 can be implemented in software alone as conjectured by the Examiner, it is submitted that this does not make claims 19-22 unpatentable under 35 USC 101 as being directed to non-

statutory subject matter as alleged by the Examiner. It is submitted that nothing whatsoever in MPEP 2106 ("Patent Subject Matter Eligibility") (see MPEP pages 2100-5 through 2100-16) and MPEP 2106.1 ("Computer-Related Nonstatutory Subject Matter") (see MPEP pages 2100-17 and 2100-18) supports the position taken by the Examiner. Furthermore, it is submitted that nothing whatsoever in the Examiner's explanation of the rejection indicates that the Examiner has analyzed claims 19-22 in the manner required by MPEP 2106 and 2106.1. In any event it is submitted that the Examiner has not clearly communicated the findings, conclusions, and reasons which support his rejection of claims 19-22 under 35 USC 101 as being directed to non-statutory subject matter as required by MPEP 2106(VII) (see MPEP page 2100-15). Accordingly, it is submitted that the Examiner has not established a *prima facie* case of unpatentability under 35 USC 101.

For at least the foregoing reasons, it is respectfully requested that the rejection of claims 19-22 under 35 USC 101 as being directed to non-statutory subject matter be withdrawn.

Claim Rejections Under 35 USC 102

Rejections 1 and 2

Claims 1 and 23 were rejected under 35 USC 102(e) as being anticipated by Tsumagari et al. (Tsumagari '095) (U.S. Patent Application Publication No. 2004/0126095). This rejection is respectfully traversed.

Claims 1 and 23 were rejected under 35 USC 102(e) as being anticipated by Tsumagari et al. (Tsumagari '615) (U.S. Patent Application Publication No. 2003/0161615). This rejection is respectfully traversed.

The U.S. filing date of Tsumagari '095 is August 14, 2003, and the U.S. filing date of Tsumagari '615 is February 26, 2003, both of which are after the filing date of October 17, 2002, of Korean Patent Application No. 2002-63631, one of the eight Korean priority applications of the present application. A certified copy of Korean Patent Application No. 2002-63631 was filed on January 20, 2004, in the present application. The Examiner has acknowledged receipt of the certified copy in item 12 on page 1 (the Office Action Summary) of the Office Action of December 12, 2006. Accordingly, pursuant to 37 CFR 1.55(a)(4) and MPEP 201.15, submitted herewith is an English translation of Korean Patent Application No. 2002-63631 and a statement that the

English translation is accurate to perfect the applicants' claim for foreign priority under 35 USC 119(a)-(d) and remove the availability of Tsumagari '095 and Tsumagari '615 as references against the claims of the present application with respect to Korean Patent Application No. 2002-63631. It is submitted it is readily apparent from the English translation that claims 1 and 23 are fully supported by Korean Patent Application No. 2002-63631. In light of this, it is respectfully requested that the rejections of claims 1 and 23 under 35 USC 102(e) as being anticipated by Tsumagari '095 and Tsumagari '615 be withdrawn.

Rejection 3

Claims 1-24 were rejected under 35 USC 102(e) as being anticipated by Lamkin et al. (Lamkin '729) (U.S. Patent Application Publication No. 2005/0278729). This rejection is respectfully traversed.

Attached hereto are copies of a Utility Patent Application Transmittal, a Fee Transmittal, and a Notice of Copied Claims Under 37 C.F.R. § 1.604(b) filed on July 12, 2005, in Lamkin '729. As can be seen from the Notice of Copied Claims, claims 1-24 of Lamkin '729 are identical to claims 1-24 of the present application because Lamkin '729 copied claims 1-24 of the present application as claims 1-24 of Lamkin '729. The present application is referred to by its publication number of 2004/0139394 in the Notice of Copied Claims.

Also, as can be seen from the Notice of Copied Claims, claims 25-33 of Lamkin '729 are identical to claims 1-9 of copending Application No. 10/685,694 because Lamkin '729 copied claims 1-9 of copending Application No. 10/685,694 as claims 25-33 of Lamkin '729. The inventors of the present application are also the inventors of copending Application No. 10/685,694. Copending Application No. 10/685,694 is referred to by its publication number of 2004/0139249 in the Notice of Copied Claims.

The actual U.S. filing date of Lamkin '729 is July 12, 2005, which is after the U.S. filing date of October 16, 2003, of both the present application and copending Application No. 10/685,694. Lamkin purports to be a continuation of Application No. 09/935,756 filed on August 21, 2001, which was published as U.S. Patent Application Publication No. 2002/0078144 to Lamkin et al. (Lamkin '144). However, it is submitted that copied claims 1-33 of Lamkin '729 appear to contain new matter with respect to parent Application No. 09/935,756 of Lamkin '729

at least because the terms "buffer manager," "report signal," and "preload" (in all its forms) recited in various ones of claims 1-24 of the present application and various ones of claims 1-9 of copending Application No. 685,694 appear only in various ones of copied claims 1-33 of Lamkin '729 and do not appear elsewhere in Lamkin '729 or anywhere in Lamkin '144 which is a publication of parent Application No. 09/935,756 of Lamkin '729. In light of this, it is submitted that Lamkin '729 is actually a continuation-in-part of parent Application No. 10/935,756 of Lamkin '729.

In any event, it is submitted that the Examiner cannot rely on any matter in Lamkin '729 (U.S. filing date of July 12, 2005) that does not appear in Lamkin '144 (U.S. filing date of August 21, 2001) which is a publication of parent Application No. 09/935,756 of Lamkin '729 because any such matter in Lamkin '729 has a U.S. filing date of July 12, 2005, which is after the U.S. filing date of October 16, 2003, of the present application. In particular, the Examiner cannot rely on any of claims 1-33 of Lamkin '729 to reject any of claims 1-24 of the present application because claims 1-33 of Lamkin '729 have a U.S. filing date of July 12, 2005, which is after the U.S. filing date of October 16, 2003, of the present application.

In light of this, it is submitted that the appropriate course of action would be for the Examiner to rely on Lamkin '144 to avoid the possibility of relying on any matter in Lamkin '729 that has a U.S. filing date of July 12, 2005. Accordingly, should the Examiner be inclined to continue to rely on Lamkin '729 in the next Office Action, it is respectfully requested that the Examiner rely on Lamkin '144 instead. Alternatively, should the Examiner decline to do this, it is respectfully requested that the Examiner specifically point out where any portions of Lamkin '729 relied on by the Examiner can also be found in Lamkin '144.

In any event, since the Examiner relied only on claims 1-24 of Lamkin '729 in the rejection of claims 1-24 under 35 USC 102(e) as being anticipated by Lamkin '729, and since claims 1-24 of Lamkin '729 have a U.S. filing date of July 12, 2005, which is after the U.S. filing date of October 16, 2003, of the present application, it is respectfully requested that the rejection of claims 1-24 under 35 USC 102(e) as being anticipated by claims 1-24 of Lamkin '729 be withdrawn.

Claim Rejections Under 35 USC 103

Rejection 1

Claims 1-14 and 19-22 were rejected under 35 USC 103(a) as being unpatentable over Landsman et al. (Landsman) (U.S. Patent No. 6,466,967) in view of Silberschatz, Avi, Peter Galvin and Greg Gagne (Silberschatz) ("Applied Operating System Concepts," First Edition, John Wiley & Sons, Inc., 2000, pp. 65-66 and 412-431). This rejection is respectfully traversed.

Claim 1

It is submitted that Landsman and Silberschatz do not disclose or suggest "a buffer which buffers the markup document" as recited in independent claim 1. The Examiner considers column 9, lines 23-55; column 10, lines 5-31; and column 26, lines 43-49, of Landsman to disclose this feature of claim 1, although the Examiner did not indicate which elements discussed in these portions of Landsman allegedly correspond to the "buffer" and the "markup document" recited in claim 1.

However, it is submitted that the only element in the portions of Landsman relied on by the Examiner that may arguably be considered to correspond to the "markup document" recited in claim 1 is the HTML tag which is embedded into a referring page as described in column 10, lines 5-8, of Landsman. However, it is not seen where Landsman discloses or suggests a buffer which buffers this HTML tag. Column 10, lines 16-17, of Landsman indicates that media files are downloaded into a browser RAM cache. However, it is submitted that such media files are not a "markup document" as recited in claim 1. This HTML tag contains a component that downloads a Java applet that in turn downloads advertising files (media and player files) and plays the files on an interstitial basis in response to a user click-stream, that is, when the user clicks a mouse to transition to a next successive content page. See column 10, lines 5-20 and 45-53, of Landsman. The other component is the web address of an advertising management system from which the advertising files are to be downloaded. See column 10, lines 20-23, of Landsman. However, it is submitted that Landsman's advertising files are not reproduced "in an interactive mode" as recited in claim 1 because the user has no control over which advertising files will be reproduced or when a particular advertising file will be reproduced. In fact, until the first advertising file is reproduced when the user clicks a mouse to transition to a next successive

content page, the user will not even be aware that any advertising files have been downloaded because this process is transparent to the user as described in column 10, lines 13-18 and 40-45, of Landsman.

Furthermore, it is submitted that Landsman and Silberschatz do not disclose or suggest "a buffer manager which manages the buffer to preload the markup document and outputs buffering state information of the buffer in response to a report signal" as recited in claim 1. The Examiner considers column 16, line 56, through column 17, line 9, and column 26, lines 43-49, of Landsman to disclose this feature of claim 1.

Although column 16, line 56, through column 17, line 9, of Landsman relied on by the Examiner describes preloading a Java applet known as an "AdController" agent and media-rich advertising content into a browser disk cache, it is submitted that the Java applet and the media-rich advertising content are not a "markup document" as recited in claim 1. Furthermore, it is not seen where Landsman discloses or suggests preloading Landsman's HTML tag which may arguably be considered to be a "markup document" as recited in claim 1 into the browser disk cache or into any other element that may arguably be considered to be a "buffer" as recited in claim 1, it being noted "preloading" is not the same thing as "loading."

As recognized by the Examiner, Landsman does not disclose "a buffer manager which . . . outputs buffering state information of the buffer in response to a report signal" as recited in claim 1. However, the Examiner is of the opinion that it would have been obvious implement this feature in Landsman's system because column 26, lines 43-49, of Landsman "teaches that the advertisement can not be played until it is fully cached . . ., motivating one of ordinary skill in the art to provide a way to determine if it is cached." The Examiner has relied on page 427, #6-8, of Silberschatz for a general teaching of outputting state information of a buffer.

However, Landsman already provides a way if determining whether an advertisement is fully cached—by loading an ad descriptor file 645 for an advertisement into a play queue 1470 after a browser cache proxy 1450 has finished downloading all media and player files for that advertisement from an agent server 15 as shown in FIG. 14 and described in column 36, lines 31-47, of Landsman. In light of this, it is submitted that there would have been no motivation for one of ordinary skill in the art to implement "a buffer manager which . . . outputs buffering state information of the buffer in response to a report signal" as recited in claim 1 in Landsman's system as a way to determine if an advertisement is cached as proposed by the Examiner.

Claim 8

It is submitted that Landsman and Silberschatz do not disclose or suggest the feature "wherein the content decoder generates the report signal using an [obj].isCached(URL, resType) API, where the URL is a parameter indicating a file path of the markup document and the resType is a parameter indicating an attribute of the markup document" recited in dependent claim 8. The Examiner considers column 26, lines 43-49, and column 34, line 66, through column 35, line 18 of Landsman and page 427, #6-8, of Silberschatz to disclose this feature of claim 8. However, it is not seen where these portions of Landsman and Silberschatz disclose or suggest "an [obj].isCached(URL, resType) API" as recited in claim 8. Nor has the Examiner explained why he considers these portions of Landsman and Silberschatz to disclose this feature of claim 8.

Claim 19

It is submitted that Landsman and Silberschatz do not disclose or suggest "a buffer manager which manages the buffer to preload the markup document and outputs information of the buffer including buffering information of the markup document, wherein the buffering information includes: information indicating that preloading of the markup document succeeded; information indicating that the preloading of the markup document failed; and information indicating that the preloading of the markup document is still be conducted" as recited in independent claim 19 for at least the same reasons discussed above that Landsman and Silberschatz do not disclose or suggest the similar feature of claim 1.

Conclusion—Rejection 1

For at least the foregoing reasons, it is respectfully requested that the rejection of claims 1-14 and 19-22 (i.e., claims 1, 8, and 19 discussed above and claims 2-7, 9-14, and 20-22 depending from claims 1 and 19) under 35 USC 103(a) as being unpatentable over Landsman in view of Silberschatz be withdrawn.

Rejection 2

Claims 15-18 were rejected under 35 USC 103(a) as being unpatentable over Landsman in view of Silberschatz as applied to claim 2 above, and further in view of Klug et al. (Klug) (U.S. Patent No. 5,996,007). This rejection is respectfully traversed.

It is submitted that Landsman and Silberschatz do not disclose or suggest the feature "wherein the content decoder generates the report signal using a progressLengthOfFile API to determine how much of the markup document currently being preloaded has been preloaded" recited in dependent claim 15, or the feature "wherein the content decoder generates the report signal using a remainLengthOfFile API to determine how much of the markup document currently being preloaded is yet to be preloaded" as recited in dependent claim 16, or the feature "wherein the content decoder generates the report signal using a totalLoadingSize API to determine a total load of the markup document to be preloaded" recited in dependent claim 17, or the feature "wherein the content decoder generates the report signal using a remainLoadingSize API to determine how much of a total load of the markup document is yet to be preloaded" recited in dependent claim 18. However, the Examiner considers column 6, lines 5-21, and column 8, lines 6-16, of Klug to teach or imply these features of claims 15-18, and is of the opinion that it would have been obvious to one of ordinary skill in the art to implement these features in the combination of Landsman and Silberschatz proposed by the Examiner "because both teach displaying content, such as advertisements, while other pages are loading, motivating one of ordinary skill in the art to consider combining the teachings of the two disclosures."

However, it is submitted that the mere fact that two references disclose similar features does not, in and of itself, provide the motivation for one of ordinary skill in the art to combine teachings of two references that is required to establish a *prima facie* case of obviousness under 35 USC 103(a).

Furthermore, it is not seen where column 6, lines 5-21, and column 8, lines 6-16, of Klug disclose or suggest "a progressLengthOfFile API" as recited in claim 15, or "a remainLengthOfFile API" as recited in claim 16, or "a totalLoadingSize API" as recited in claim 17, or "a remainLoadingSize API" as recited in claim 18. Nor has the Examiner explained why he considers these portions of Klug to disclose or suggest these features of claims 15-18.

Furthermore, it is submitted that it would not have been obvious to implement the features described in column 6, lines 5-21, and column 8, lines 6-16, of Klug in the combination

of Landsman and Silberschatz proposed by the Examiner because these features would have been of no use in Landsman's advertisement displaying apparatus. Landsman's apparatus simply downloads advertisement media and player files, and when all of the files for an advertisement have been downloaded, moves an AdDescriptor file for the advertisement into a play queue as discussed above in connection with claim 1.

For at least the foregoing reasons, it is respectfully requested that the rejection of claims 15-18 under 35 USC 103(a) as being unpatentable over Landsman in view of Silberschatz as applied to claim 2 above, and further in view of Klug be withdrawn.

Rejection 3

Claims 23 and 24 were rejected under 35 USC 103(a) as being unpatentable over Landsman in view of Silberschatz and Lumelsky et al. (Lumelsky) (U.S. Patent No. 6,463,454). This rejection is respectfully traversed.

It is submitted that Landsman, Silberschatz, and Lumelsky do not disclose or suggest "an enhanced audio video (ENAV) buffer which preloads the markup document to reproduce the AV data in the interactive mode" and "an ENAV engine which identifies buffering state information of the markup document and decodes the markup document" as recited in independent claim 23 for at least the same reasons discussed above that Landsman and Silberschatz do not disclose or suggest the similar features of claims 1 and 19.

Furthermore, although the Examiner considers 4, lines 37-55, of Lumelsky to teach "the use of enhanced audio and video" as recited in claim 23, the relevant portion of Lumelsky of this passage in Lumelsky (which is in the Background of the Invention section of Lumelsky) merely reads as follows (emphasis added):

> A new breed of high performance applications such as remote surgery, robotics, tele-instrumentation, automated crisis response, digital libraries of satellite data, distance learning via multimedia supported Web sites, enhanced audio, and video, is emerging. However, to accommodate such high performance applications and their continuous media flows, it is not enough to increase or reserve network capacity

This is the only place in Lumelsky that mentions "enhanced audio, and video," and it is submitted that nothing whatsoever in Lumelsky indicates that this refers to "enhanced audio vide (ENAV)" as recited in claim 23, which has acquired a specific meaning in the art.

Furthermore, it is not seen where Landsman, Silberschatz, and Lumelsky disclose or suggest the feature of claim 23 wherein the "enhanced audio video (ENAV) buffer . . . preloads the markup document to reproduce the AV data in the interactive mode." The only place the word "interactive" appears in Landsman is in column 2, line 53, in the term "interactive games." The only place the word "interactive" appears in Lumelsky is in column 2, line 33, in the term "interactive instructional presentations."

For at least the foregoing reasons, it is respectfully requested that the rejection of claims 23 and 24 (i.e., claim 23 discussed above and claim 24 depending therefrom) under 35 USC 103(a) as being unpatentable over Landsman in view of Silberschatz and Lumelsky be withdrawn.

Conclusion

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this paper, please charge the same to our Deposit Account No. 503333.

Respectfully submitted,

STEIN, MCEWEN & BUI, LLP

Date: 03/09/07

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Washington, D.C. 20005
Telephone: (202) 216-9505
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Attachments

PTO/SB/05 (09-04)
Approved for use through 07/31/2006. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

UTILITY PATENT APPLICATION TRANSMITTAL

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Attorney Docket No.	86618 7236
First Inventor	Lamkin, et al.
Title	PRESENTATION OF MEDIA CONTENT
Express Mail Label No.	EV 333 463 534 US

APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

1. [x] **Fee Transmittal Form** (e.g., PTO/SB/17) *(Submit an original and a duplicate for fee processing)*
2. [ ] **Applicant claims small entity status.** See 37 CFR 1.27.
3. [x] **Specification** [Total Pages 138]
   Both the claims and abstract must start on a new page
   (For information on the preferred arrangement, see MPEP 608.01(a))
4. [x] **Drawing(s)** *(35 U.S.C. 113)* [Total Sheets 15]
5. **Oath or Declaration** [Total Sheets 1]
   a. [ ] Newly executed (original or copy)
   b. [x] A copy from a prior application (37 CFR 1.63 (d)) *(for continuation/divisional with Box 18 completed)*
      i. [ ] DELETION OF INVENTOR(S)
      Signed statement attached deleting inventor(s) name in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).
6. [x] **Application Data Sheet.** See 37 CFR 1.76
7. [ ] **CD-ROM or CD-R** in duplicate, large table or Computer Program *(Appendix)*
   [ ] Landscape Table on CD
8. **Nucleotide and/or Amino Acid Sequence Submission** *(if applicable, items a. – c. are required)*
   a. [ ] Computer Readable Form (CRF)
   b. Specification Sequence Listing on:
      i. [ ] CD-ROM or CD-R (2 copies); or
      ii. [ ] paper
   c. [ ] Statements verifying identity of above copies.

ADDRESS TO: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

ACCOMPANYING APPLICATION PARTS

9. [ ] **Assignment Papers** (cover sheet & document(s))
   Name of Assignee
10. [ ] **37 CFR 3.73(b) Statement** *(when there is an assignee)* [ ] **Power of Attorney**
11. [ ] **English Translation Document** *(if applicable)*
12. [ ] **Information Disclosure Statement** (PTO/SB/08 or PTO-1449)
    [ ] Copies of citations attached
13. [ ] **Preliminary Amendment**
14. [x] **Return Receipt Postcard** (MPEP 503) *(Should be specifically itemized)*
15. [ ] **Certified Copy of Priority Document(s)** *(if foreign priority is claimed)*
16. [ ] **Nonpublication Request** under 35 U.S.C. 122 (b)(2)(B)(i). Applicant must attach form PTO/SB/35 or equivalent.
17. [x] Other: Notice of Copied Claims (37 CFR 1.604)

18. If a CONTINUING APPLICATION, *check appropriate box, and supply the requisite information below and in the first sentence of the specification following the title, or in an Application Data Sheet under 37 CFR 1.76:*
    [x] Continuation [ ] Divisional [ ] Continuation-in-part (CIP) of prior application No.: **09/935,756**

Prior application information: Examiner **Bayerl, Raymond J.** Art Unit: **2173**

19. CORRESPONDENCE ADDRESS

[x] The address associated with Customer Number: **22242** OR [ ] Correspondence address below

Name	FITCH, EVEN, TABIN & FLANNERY				
Address	Suite 1600 - 120 South LaSalle Street				
City	Chicago	State	IL	Zip Code	60603-3406
Country	USA	Telephone	805-781-2865	Fax	805-541-2802

Signature		Date	July 12, 2005
Name (Print/type)	*Thomas F. Lebens*	Registration No. (Attorney/Agent)	38221

PTO/SB/17 (12-04)
Approved for use through 07/31/2006. OMB 0651-0032
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Effective on 12/8/2004.
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL For FY 2005

	Complete if Known
Application Number	
Filing Date	
First Named Inventor	Lamkin
Examiner Name	
Art Unit	
Attorney Docket No.	86618 7236

☐ Applicant Claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($) 2350

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☒ Deposit Account Deposit Account Number: 06-1135 Deposit Account Name: FITCH, EVEN, TABIN & FLANNERY

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charges fee(s) indicated below, except for the filing fee

☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17, except Issue fee ☒ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES Fee ($)	FILING FEES Small Entity Fee ($)	SEARCH FEES Fee ($)	SEARCH FEES Small Entity Fee ($)	EXAMINATION FEES Fee ($)	EXAMINATION FEES Small Entity Fee ($)	Fees Paid ($)
Utility	300		500		200		1000
Design							
Plant							
Reissue							
Provisional							

2. EXCESS CLAIM FEES

Fee Description	Fee ($)	Small Entity Fee ($)
Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent		
Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent		
Multiple dependent claims		

Total Claims	- 20 or HP =	Extra Claims	x Fee ($)	= Fee Paid ($)
33		13	x 50	= 650

HP = highest number of total claims paid for, if greater than 20

Indep. Claims	- 3 or HP =	Extra Claims	x Fee ($)	= Fee Paid ($)
4		1	x 200	= 200

HP = highest number of independent claims paid for, if greater than 3

Multiple Dependent Claims Fee ($) _____ Fee Paid ($) _____

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper, the application size fee due is $ ($ for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41 (a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	- 100 =	Extra Sheets	/ 50 =	Number of each additional 50 or fraction thereof	Fee ($)	Fee Paid ($)
161		61		2 (round up to a whole number)	x 250	= 500

4. OTHER FEE(S)

Fees Paid($)

Non-English Specification, $130 fee (no small entity discount) _____

Other: _____

SUBMITTED BY

Signature		Registration No. (Attorney/Agent) 38221	Telephone 805-781-2865
Name (Print/Type)	Thomas F. Lebens		Date July 12 2005

Attorney Docket No. 86618 7236

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	Lamkin et al.
Serial No.:	Not yet assigned
Filed:	Filed herewith
For:	PRESENTATION OF MEDIA CONTENT
Group Art Unit:	Not yet assigned
Examiner:	Not yet assigned
Customer No.:	22242

NOTICE OF COPIED CLAIMS UNDER 37 C.F.R. § 1.604(b)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant hereby gives notice to the Examiner that claims 1 through 24 of the present application were copied from United States Patent Application Publication No. 2004/0139394 (the '394 application) and claims 25 through 33 of the present application were copied from United States Patent Application Publication No. 2004/0139249 (the '249 application). Claims 1 through 24 of the present application are claiming the same subject matter as claims 1 through 24 of the '394 application and claims 25 through 33 of the present application are claiming the

same subject matter as claims 1 through 9 of the '249 application.

Dated: July ___, 2005

Respectfully submitted,

Thomas F. Lebens
Reg. No. 38,221

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